



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

DOCTORS HOSPITAL AT RENAISSANCE

5501 S MCCOLL ROAD

EDINBURG TX 78539

Carrier's Austin Representative Box

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Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Date Received

FEBRUARY 20, 2007

MFDR Tracking Number

M4-07-3766-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated: The requestor did not submit a position summary in the dispute packet.

Amount in Dispute: \$6,708.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated March 12, 2007: "As detailed in the Staff Report, in order to qualify for payments under the stop-loss exception: (1) the hospital must show that the required services rendered during the admission were 'unusually extensive,' and (2) 'total audited charges' must exceed what the rule calls the 'minimum threshold' of \$40,000... If both of these criteria are not met, payment is made under the Rule's per diem plus carve-outs method... Texas Mutual reviewed the medical records and other information furnished by the hospital to Texas Mutual with the billings and/or the hospital's request for medical dispute resolution. Those records do not show that the required services rendered during the admission were unusually costly or unusually extensive. Texas Mutual had a peer review performed to analyze whether the required services rendered during the admission were unusually costly or unusually extensive... The peer reviewer did not find that the services in the admission were unusually costly or unusually extensive... In this dispute, the requestor has not provided any additional information to justify the required services were unusually costly or unusually extensive... In conclusion, the admission did not have services that were unusually extensive or unusually costly and total audited charges do not exceed the minimum threshold of \$40,000. Payment under the stop-loss exception has not been justified by the hospital in this case, and Texas Mutual's payment under the per diem plus carve-outs method is appropriate."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
October 31, 2006 Through November 9, 2006	Inpatient Hospital Services	\$6,708.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §133.307, 31 *Texas Register* 10314, applicable to requests filed on or after January 15, 2007, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
3. 28 Texas Administrative Code §134.1, 31 *Texas Register* 3561, effective May 2, 2006, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable division fee guideline.
4. 28 Texas Administrative Code §134.600, effective May 2, 2006 requires preauthorization for inpatient hospital services.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- Billed charges do not meet the stop-loss method standard of the 08/01/97 Acute Care Inpatient Hospital Fee Guideline. The charges do not indicate an unusually costly or unusually extensive hospital stay. The intent of stop-loss payment is to compensate hospitals for inpatient stays that are either costly to the facility by an unusually long length of stay or the provision of unusually costly types of services. The provision of implantables through the facility does not fit either of these situations.
- CAC-W1 – Workers compensation state fee schedule adjustment
- CAC-W10 – No maximum allowable defined by fee guideline. Reimbursement made based on insurance carrier fair and reasonable reimbursement methodology.
- CAC-62 – Payment denied/reduced for absence of, or exceeded, pre-certification/authorization.
- CAC - 97 -Payment included in the allowance for another service/procedure.
- 480 – Reimbursement based on the acute care inpatient hospital fee guideline per diem rate allowances.
- 711 – Length of stay exceeds number of days previously preauthorized, documentation does not support medical necessity for additional days.
- 719 - Reimbursed at carrier's fair & reasonable; cost data unavailable for facility. Additional payment may be considered if data is submitted.
- 730 –Denied as included in per diem rate
- CAC-W4- No additional reimbursement allowed after review of appeal/reconsideration.
- CAC- 143 –Portion of payment deferred.
- 420 – Supplemental payment.
- 426 – Reduced to fair and reasonable.
- 891 – The insurance company is reducing or denying payment after reconsideration

Issues

1. Does a preauthorization issue exist in this dispute?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually extensive services?
4. Did the admission in dispute involve unusually costly services?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 *Texas Register* 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 *South Western Reporter Third* 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 Texas Administrative Code §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this case were notified via form letter that the mandate for the decision cited above

was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the division will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 Texas Administrative Code §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold as described in paragraph (6) of this subsection..." 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. According to the explanation of benefits, the respondent denied/reduced payment for dates of service November 3, 2006 through November 9, 2006 based upon reason codes "62 and 711."

28 Texas Administrative Code §134.600(q)(1) states "The health care requiring concurrent review for an extension for previously approved services includes: inpatient length of stay."

The requestor failed to submit documentation to support that preauthorization for dates of service November 3, 2006 through November 9, 2006 was obtained in accordance with 28 Texas Administrative Code §134.600(q)(1); therefore, a preauthorization issue does exist in this dispute. As a result, reimbursement cannot be recommended for these dates.

2. 28 Texas Administrative Code §134.401(c)(6)(A)(i) states "...to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, (A) (v) of that same section states "...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed..." Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$44,114.42. The Division concludes that the total audited charges exceed \$40,000.
3. 28 Texas Administrative Code §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). Paragraph (6)(A)(ii) states that "This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission." The Third Court of Appeals' November 13, 2008 opinion states that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services" and further states that "...independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases." The requestor fails to meet the requirements of §134.401(c)(2)(C) because the requestor does not demonstrate how the services in dispute were unusually extensive in relation to similar knee surgery services or admissions. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).
4. 28 Texas Administrative Code §134.401(c)(6) states that "Stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar knee surgery services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(6).
5. For the reasons stated above the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The Division notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission..." The length of stay was nine days; however, documentation supports that the Carrier pre-authorized a length of stay of three days in accordance with 28 Texas Administrative Code Rule §134.600. Consequently, the per diem rate allowed is \$3,354.00 for the three authorized days.

- 28 Texas Administrative Code §134.401(c)(4)(A), states “Additional reimbursements. All items listed in this paragraph shall be reimbursed in addition to the normal per diem based reimbursement system in accordance with the guidelines established by this section. Additional reimbursements apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.”

A review of the submitted Table of Disputed Services finds that the requestor did not seek dispute resolution for any of the services that are eligible for additional reimbursement listed in 28 Texas Administrative Code §134.401(c)(4)(A). As a result, reimbursement cannot be recommended for these services.

The division concludes that the total allowable for this admission is \$3,354.00. The respondent issued payment in the amount of \$3,354.00. Based upon the documentation submitted, no additional reimbursement can be recommended.

Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result no additional reimbursement can be recommended.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

3/26/2013
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.